

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

* * *

PETER PIRTLE,
Plaintiff
v.
NURSE ROSA, *et al.*,
Defendant

Case No. 3:21-CV-0324-MMD-CLB

ORDER GRANTING MOTION TO SEAL

[ECF No. 18]

10 Before the Court is Defendants Michael Minev and Rosa Lopez's (collectively
11 referred to as "Defendants") motion for leave to file medical records under seal in support
12 of Defendants' opposition to Plaintiff Peter Pirtle's ("Pirtle") motion for preliminary
13 injunction. (ECF No. 18.)

14 “The courts of this country recognize a general right to inspect and copy public
15 records and documents, including judicial records and documents.” *Courthouse News*
16 *Serv. v. Planet*, 947 F.3d 581, 591 (9th Cir. 2020) (quoting *Courthouse News Serv. v.*
17 *Brown*, 908 F.3d 1063, 1069 (7th Cir. 2018)). Certain documents are exceptions to this
18 right and are generally kept secret for policy reasons, including grand jury transcripts and
19 warrant materials in a pre-indictment investigation. *United States v. Bus. of Custer*
20 *Battlefield Museum & Store Located at Interstate 90, Exit 514, S. of Billings, Mont.*, 658
21 F.3d 1188, 1192 (9th Cir. 2011) (quoting *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d
22 1172, 1178 (9th Cir. 2006)).

If a party seeks to file a document under seal, there are two possible standards the party must address: the compelling reasons standard or the good cause standard. See *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97 (9th Cir. 2016). The choice between the two standards depends on whether the documents proposed for sealing accompany a motion that is “more than tangentially related” to the merits of the case. *Id.* at 1099. If it is more than tangentially related, the compelling reasons standard

1 applies. If not, the good cause standard applies. *Ctr. for Auto Safety*, 809 F.3d at 1102.

2 Here, Defendants seek to file exhibits under seal in connection with their opposition
 3 to motion for preliminary injunction, (ECF No. 18), which are “more than tangentially
 4 related” to the merits of a case. Therefore, the compelling reasons standard applies.

5 Under the compelling reasons standard, “a court may seal records only when it
 6 finds ‘a compelling reason and articulate[s] the factual basis for its ruling, without relying
 7 on hypothesis or conjecture.’” *United States v. Carpenter*, 923 F.3d 1172, 1179 (9th Cir.
 8 2019) (quoting *Ctr. for Auto Safety*, 809 F.3d at 1096-97) (alteration in original). Finding
 9 a compelling reason is “best left to the sound discretion” of the court. *Ctr. for Auto Safety*,
 10 809 F.3d at 1097 (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 599 (1978)).

11 This Court, and others within the Ninth Circuit, have recognized that the need to
 12 protect medical privacy qualifies as a “compelling reason” for sealing records, since
 13 medical records contain sensitive and private information about a person’s health. See,
 14 e.g., *Spahr v. Med. Dir. Ely State Prison*, No. 3:19-CV-0267-MMD-CLB, 2020 WL 137459,
 15 at *2 (D. Nev. Jan. 10, 2020); *Sapp v. Ada Cnty. Med. Dep’t*, No. 1:15-CV-00594-BLW,
 16 2018 WL 3613978, at *6 (D. Idaho July 27, 2018); *Karpenski v. Am. Gen. Life Companies,*
 17 LLC, No. 2:12-CV-01569RSM, 2013 WL 5588312, at *1 (W.D. Wash. Oct. 9, 2013). While
 18 a plaintiff discloses aspects of his medical condition at issue when he files an action
 19 alleging deliberate indifference to a serious medical need under the Eighth Amendment,
 20 that does not mean that all his medical records filed in connection with a motion (which
 21 often contain unrelated medical information) must be broadcast to the public. In other
 22 words, the plaintiff’s interest in keeping his sensitive health information confidential
 23 outweighs the public’s need for direct access to the medical records.

24 Here, the referenced exhibits contain Pirtle’s sensitive health information, medical
 25 history, and treatment records. Balancing the need for the public’s access to information
 26 regarding Pirtle’s medical history, treatment, and condition against the need to maintain
 27 the confidentiality of Pirtle’s medical records weighs in favor of sealing these exhibits.

28

1 Therefore, Defendants' motion to seal, (ECF No. 18), is **GRANTED**.
2
3 **IT IS SO ORDERED.**
4
5 **DATED:** October 14, 2021
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


UNITED STATES MAGISTRATE JUDGE